

CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES

ISSUED BY STATE BOARD OF ACCOUNTS

June 1992

1992 LAWS AFFECTING CITIES AND TOWNS

The following is a digest of the laws deemed most pertinent which were enacted during the 1992 regular session of the Legislature that are related to cities, towns, and municipally owned utilities. They are listed only to call them to your attention. Questions regarding legal interpretation should be directed to your city or town attorney.

PUBLIC LAW 1-SENATE ENROLLED ACT 33-EFFECTIVE VARIOUS DATES BUDGETS - Amends IC 6-1.1-17-5 - Requires the fiscal body of a second class city to meet each year to fix the budget, tax rate, and tax levy no later than September 30.

SPEED LIMITS - Amends IC 9-21-5-6 - makes technical changes to minimum and maximum speed limits on highways and alleys.

PUBLIC LAW 4-SENATE ENROLLED ACT 131-EFFECTIVE JANUARY 26 AND APRIL 1, 1992
AMERICANS WITH DISABILITIES ACT (ADA) - Adds new sections defining ADA for PERF, Police and Fire Pensions - Defines the Act as Americans with Disabilities Act (42 U.S.C. 12101 et. seq.) and any amendments and regulations related to the Act.

POLICE AND FIRE EMPLOYMENT STANDARDS - Amends IC 36-8-3.2 - Makes standards applicable to police officers hired or rehired after January 25, 1992. Requires these standards to be presented to the law enforcement training board.

POLICE AND FIRE MERIT SYSTEMS - Amends IC 36-8-3.5 - Requires aptitude tests to be administered in a manner that reasonably accommodates the needs of disabled applicants. When a vacancy occurs, the chief shall administer the physical agility test to the applicant having the highest score on the eligibility list.

1925 POLICE PENSION FUND, 1937 FIREFIGHTERS' PENSION FUND, 1977 POLICE OFFICERS' AND FIREFIGHTERS' PENSION AND DISABILITY FUND - Amends IC 36-8-6, IC 36-8-7 and IC 36-8-8 - Adds languages to bring these laws into compliance with the ADA.

PUBLIC LAW 10-SENATE ENROLLED ACT 205-EFFECTIVE VARIOUS DATES ELECTIONS - Amends - IC 3 - Makes numerous changes to the voter registration, write-in candidate and campaign finance laws.

DISSOLUTION OF SMALL TOWNS IN MARION COUNTY - Amends IC 36-5-1.1-10 Allows Marion County executive to adopt an order approving dissolution of a town instead of an ordinance. (An ordinance is still required in all other counties).

PUBLIC LAW 10 (Continued)

CERTIFICATE OF ELECTION - Amends IC 5-8-3.5 - Requires those individuals filling vacancies in elected offices to notify the town clerk-treasurer that he/she is entitled to a certificate of election.

PUBLIC LAW 12-SENATE ENROLLED ACT 232-EFFECTIVE APRIL 1, 1992 POPULATION

REFERENCES - Amends Various Sections - Changes population references to reflect the results of the 1990 census.

PUBLIC LAW 18-HOUSE ENROLLED ACT 1394-EFFECTIVE FEBRUARY 26 AND JULY 1, 1992 TAX INCREMENT FINANCE (TIF) - Amends IC 36-7-14 and IC 36-7-15.1 - Permits a redevelopment commission to appoint a treasurer. Allows TIF proceeds to be used to reimburse entities for expenses incurred in training employees of industrial facilities located in the district. Requires redevelopment commissions to file a copy of resolutions establishing or amending any allocation procedures with each taxing unit affected.

TAX INCENTIVE STUDY COMMITTEE - Noncode Establishes an interim study committee to evaluate enterprise zones, tax abatements, and tax increment finance districts.

ENTERPRISE ZONES - Amends IC 4-4-6.1-3 - Forbids the enterprise zone board from establishing new zones after December 31, 1995.

CAPITAL ACCESS PROGRAM - Amends IC 4-4-26 - Makes several technical changes to chapter 26.

LOCAL ECONOMIC DEVELOPMENT ORGANIZATION GRANTS - Amends IC 4-4-24-7 Raises the maximum amount of the grant from \$50,000 to \$75,000.

PUBLIC LAW 27-HOUSE ENROLLED ACT 1095-EFFECTIVE VARIOUS DATES CITY OPTION

HOSPITAL INCOME TAX - Adds IC 6-3.5-8.5 - Allows the cities of Gary and East Chicago to adopt a city option hospital income tax on hospitals located within such cities.

LAKE COUNTY HOTEL-MOTEL TAX - Amends IC 6-9-2 - Requires the county treasurer to allocate to cities and towns in Lake County 9% of all hotel-motel tax revenue to be used for each city or town's economic development projects. Another 2.67% shall be distributed to the cities of Gary and Hammond in equal shares to be used for convention facilities located within those cities including facility marketing, sales, and public relations programs.

PUBLIC LAW 29-HOUSE ENROLLED ACT 1328-EFFECTIVE FEBRUARY 21, 1992 INDIANA BOND

BANK - Amends IC 5-1.5 and IC 5-13-9-3.5 - Allows the Indiana Bond Bank to purchase more types of investments. Makes amendments to the volume cap limits.

PUBLIC LAW 30-HOUSE ENROLLED ACT 1127-EFFECTIVE JULY 1, 1992 LAW ENFORCEMENT

TRAINING - Amends IC 5-2-1 - Requires the chief executive officer of a law enforcement department or agency to submit a written report to the law enforcement training board detailing the basic and inservice training status of each law enforcement officer on the payroll and reserve officers.

Prohibits law enforcement officers and reserves appointed after June 30, 1993, from making arrests, conducting searches or seizures of a person or property, or carrying a firearm unless those officers and reserves have completed the training board's basic training requirements or pre-basic course.

PUBLIC LAW 31-HOUSE ENROLLED ACT 1108-EFFECTIVE JULY 1, 1992 LEGAL ADVERTISING -

Amends IC 5-3 - States that notices containing legal descriptions of property to also contain the common street address or other common description of the property. The common description must precede the legal description.

PUBLIC LAW 32-HOUSE ENROLLED ACT 1054-EFFECTIVE FEBRUARY 21 and JULY 1, 1992 OATHS

OF OFFICE - Amends IC 5-4-1.4 - Requires certified copies of the oaths of town officials to be filed in the office of the town clerk-treasurer instead of the county recorder.

CITY AND TOWN CLAIMS - Adds IC 36-4-8-14 and IC 36-5-4-12 - Allows city and town legislative bodies to adopt an ordinance allowing the fiscal officer to make claim payments in advance of board allowance for the following kinds of expenses:

- (1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.
- (2) License or permit fees.
- (3) Insurance premiums.
- (4) Utility payments or utility connection charges.
- (5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.
- (6) Grants of state funds authorized by statute.
- (7) Maintenance or service agreements.
- (8) Leases or rental agreements.
- (9) Bond or coupon payments.
- (10) Payroll
- (11) State, federal, or county taxes.

Each payment of expenses must be supported by a fully itemized claim.

The city or town legislative body or the city or town board having jurisdiction over the allowance of the claim shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.

PUBLIC LAW 32 (Continued)

LOCAL GOVERNMENT FINANCE STUDY COMMISSION - Establishes a commission to conduct a study of the following:

- (1) Ways to simplify and recodify statutory property tax controls.
- (2) Revenue sources and uses of the revenue.
- (3) The impact of property tax controls on economic development.
- (4) Alternative sources of revenue that are not derived from property taxes.
- (5) The Barrett Law. The commission shall do the following concerning the Barrett Law:
 - (A) Recodify the Barrett Law during the 1992 interim of the general assembly
 - (B) Study the Barrett Law and recommend changes during the 1993 interim of the general assembly.
 - (C) Study other issues concerning the Barrett Law that are assigned by the legislative council.

PUBLIC LAW 33-SENATE ENROLLED ACT 294-EFFECTIVE FEBRUARY 28, 1992 SOLID WASTE MANAGEMENT DISTRICTS - Amends various sections - Creates the position of controller for the district who can also be the fiscal officer of a municipality. The duties as controller are in addition to his/her duties as fiscal officer of the municipality. Adds IC 13-9.5-2-9.3 which lists the duties of the controller and states that the controller is not the holder of a lucrative office. Gives the solid waste district board the power to enter into interlocal agreements, compensate members for attending meetings and reimburse members for travel expenses. Allows the board to be exempt from most provisions of the public depository law (IC 5-13) if it passes a resolution to do so. Amends IC 5-11-10-2 - Permits solid waste district claims to only be signed by the board's chairperson or designee.

PUBLIC LAW 37-SENATE ENROLLED ACT 204-EFFECTIVE VARIOUS DATES PUBLIC DEPOSITORY LAW - Amends IC 5-13-7-6 - Requires the position of secretary of the local board of finance to be elected from the board's membership.

PUBLIC LAW 39-SENATE ENROLLED ACT 461-EFFECTIVE JULY 1, 1992 ACCESS TO LAW ENFORCEMENT RECORDS - Amends IC 5-14-3-5 - Requires all information pertaining to arrests, summons, jail bookings, suspected crimes, accidents and complaints to be made available for inspection and copying. The record containing the information must be created not more than 24 hours after the suspected crime, accident or complaint has been reported. Requires daily log or record to be kept by all law enforcement agencies.

PUBLIC LAW 40-HOUSE ENROLLED ACT 1004-EFFECTIVE VARIOUS DATES CITY HEALTH DEPARTMENTS - Amends IC 16-1-7 - Prohibits cities in Tippecanoe County from establishing a full-time or part-time city health department. Requires such cities to transfer an amount equal to the revenue raised from a tax rate of two cents per \$100 to the community health clinic. Provides for consolidation of the cities' health departments with the county's health department.

PUBLIC LAW 41-HOUSE ENROLLED ACT 1225-EFFECTIVE FEBRUARY 24, 1992 TAX INCREMENT FINANCE (TIF) - Amends IC 36-7-14 and IC 36-7-15.1 - Allows redevelopment commissions to appoint a treasurer who is not a member of the commission. Defines depreciable personal property as all of the designated taxpayer's depreciable personal property that is located in the allocation area. Makes other changes regarding actions taken by redevelopment commissions.

PUBLIC LAW 42-HOUSE ENROLLED ACT 1039-EFFECTIVE VARIOUS DATES ECONOMIC REVITALIZATION AREAS - Amends IC 6-1.1-12.1 - Makes changes to the definition of new manufacturing equipment as it relates to such areas.

ECONOMIC DEVELOPMENT DISTRICTS - Amends IC 6-1.1-39 - Defines additional area as an area added to the district under IC 6-1.1-39-6. States that taxes attributable to the additional area are not eligible for state property tax replacement credit. Makes provision for the district to fund the loss of such credit.

PUBLIC LAW 44-HOUSE ENROLLED ACT 1100-EFFECTIVE VARIOUS DATES BOAT EXCISE TAX - Amends IC 6-6-11 - Requires boat excise tax to be distributed to counties monthly instead of semiannually. Such tax would be on hand to be distributed in any advance draw computations for municipalities.

PUBLIC LAW 51-HOUSE ENROLLED ACT 1344-EFFECTIVE FEBRUARY 21, 1992 MADISON COUNTY FOOD AND BEVERAGE TAX - Amends IC 6-9-26 - Provides for distribution of part of the tax revenue to the City of Anderson for economic development projects once any outstanding bonds, loans, or leases are paid by the county from the county's economic development project fund.

PUBLIC LAW 53-SENATE ENROLLED ACT 348-EFFECTIVE FEBRUARY 21, 1992 ELECTRIC UTILITIES - Amends IC 8-1-8.5 - Makes amendments to laws dealing with electric utilities generating their own electricity. Allows for the recovery of certain construction costs through rate charges even though a facility has been cancelled.

PUBLIC LAW 54-SENATE ENROLLED ACT 41-EFFECTIVE JULY 1, 1992 ELECTRIC UTILITIES - Amends IC 8-1-2.2 - Removes the requirement that new facilities needed by municipalities for the generating and transmitting of electricity be located in the State of Indiana.

PUBLIC LAW 56-HOUSE ENROLLED ACT 1120-EFFECTIVE JULY 1, 1992 MUNICIPAL UTILITIES - Amends IC 8-1.5-4-1.5 - Those municipalities operating a waterworks through a department of waterworks under

PUBLIC LAW 56 (continued)

IC 19-3-27 (before its repeal on January 1, 1983) shall also be deemed to have established a department of waterworks. Also provides that water utilities that have been removed from the jurisdiction of the Indiana Utility Regulatory Commission after June 30, 1990, that operate with a Board of Directors under 8-1.5-4-2 shall operate as the board for purposes of IC 8-1.5-3-4 and IC 8-1.5-3-8.

PUBLIC LAW 59-SENATE ENROLLED ACT 351-EFFECTIVE JULY 1, 1992 RAILROAD CROSSINGS - Amends IC 8-6-4-1 - Removes subsection (c) which allowed a city or town to regulate the sounding of a whistle or bell at railroad crossings.

PUBLIC LAW 60-SENATE ENROLLED ACT 388-EFFECTIVE FEBRUARY 28, 1991 (RETROACTIVE) WATERCRAFT DOCKING FEE - Amends IC 8-10-5-22 - Allows Michigan City to impose an annual docking fee to be deposited in a cumulative channel maintenance fund. Such fund may only be used for dredging.

PUBLIC LAW 62-SENATE ENROLLED ACT 5-EFFECTIVE JULY 1, 1992 ANNEXATION - Amends IC 36-4-3-4 - Allows a municipality in Huntington County to annex areas to be used as an industrial park which is either owned by the municipality or by a proper owner who consents to the annexation.

PUBLIC LAW 63-SENATE ENROLLED ACT 125-EFFECTIVE JULY 1, 1991 (RETROACTIVE) UTILITY RELOCATION - Adds IC 8-23-1-22.5, IC 8-23-1-44.5 and IC 8-23-26 - Defines extraordinary cost as the cost to a utility to relocate existing facilities that is either more than 10% of the total operating revenue received by the utility or more than 50% of the total estimated cost of a proposed highway or bridge project. Adds new section setting out procedures to follow when ordered to relocate by the department of transportation.

PUBLIC LAW 64-HOUSE ENROLLED ACT 1154-EFFECTIVE JULY 1, 1992 HIGHWAY WORK ZONE FEE - Adds IC 8-23-2-15 - Allows department of transportation to contract with local law enforcement agencies to hire off duty police officers to patrol highway work zones. Limits the number of hours an off duty police officer may work on such a project to 16 hours per calendar week. Adds IC 33-19-6-14 - Requires the clerk of a city or town court to collect a highway work zone fee of 50 cents on criminal and infraction actions that are traffic offenses. Allows a judge to order the court clerk to increase the work zone fee to \$25.50 for any action in which the defendant exceeds a work zone speed limit. Amends IC 33-19-5-1 - Requires the court clerk to semiannually distribute the work zone fees to the Auditor of State.

PUBLIC LAW 72-HOUSE ENROLLED ACT 1125-EFFECTIVE JULY 1, 1992 WORKER'S COMPENSATION - POLICE RESERVES AND HAZARDOUS MATERIALS RESPONSE TEAMS - Amends IC 10-4-1-8 and IC 36-8-3-20 - Allows for municipalities to provide medical treatment and burial expense coverage for police reserves and response-team members.

PUBLIC LAW 84-SENATE ENROLLED ACT 25-EFFECTIVE VARIOUS DATES SOLID WASTE -
Amends IC 13-7-1-22 - Excludes vegetative matter at composting facilities registered under IC 13-7-35 from the definition of solid waste.

VEGETATIVE MATTER - Adds IC 13-7-29 - Prohibits vegetative matter resulting from landscaping maintenance and land clearing projects from being deposited in a solid waste landfill.

COMPOSTING FACILITIES AND OPERATIONS - Adds IC 13-7-35 - Sets rules and regulations on the operation of composting facilities.

PUBLIC LAW 89-SENATE ENROLLED ACT 151-EFFECTIVE FEBRUARY 21, 1992 SOLID WASTE -
Repeals IC 13-9.5-7-6 - Repeals the section dealing with the limitation on the imposition of final disposal fees on solid waste where a contract was entered into before January 1, 1990.

PUBLIC LAW 98-SENATE ENROLLED ACT 195-EFFECTIVE JULY 1, 1992 PESTICIDES - Adds IC 15-3-3.6-27 - Prohibits a city or town from enacting an ordinance regulating the use of pesticides. Allows cities and towns to petition, by resolution, the state pesticide review board to hold a public hearing on any problem with the use or application of pesticides.

PUBLIC LAW 111-SENATE ENROLLED ACT 255-EFFECTIVE JULY 1 and JULY 26, 1992 CIVIL RIGHTS - Amends IC 22-9 and IC 22-9.5 - Adds IC 22-9-5 - Sets out rules and regulations concerning discrimination against disabled persons.

PUBLIC LAW 133-SENATE ENROLLED ACT 370-EFFECTIVE VARIOUS DATES CARMEL, GARY, EAST CHICAGO, AND HAMMOND CITY COURTS - Amends IC 33-10.1-5-7 - Requires the judge of these courts to be an attorney in good standing under the requirements of the supreme court.

INFRACTION AND ORDINANCE VIOLATION COURT COSTS - Amends IC 33-19-5-2
Raises the costs to be charged from \$50 to \$51 - Effective July 1, 1993.

PUBLIC LAW 135-SENATE ENROLLED ACT 325-EFFECTIVE JULY 1, 1992 DISPOSAL OF PROPERTY - Amends IC 32-9-1-10.5 - States that for the purposes of IC 36-1-11-1(b)(7), it is not necessary that a nonprofit corporation have a tax determination letter in hand at the time the sale or lease is entered into if the unit believes in good faith that the corporation is tax exempt at the time of the sale or lease. However, the nonprofit corporation shall provide the unit with a tax determination letter before December 31, 1992. In addition, the sale agreement, deed, or lease is void because of being entered into in violation of IC 36-1-11-1(b)(7) if the tax determination letter states that the nonprofit corporation is not exempt from taxation under Section 501 of the Internal Revenue Code.

PUBLIC LAW 147-SENATE ENROLLED ACT 2-EFFECTIVE FEBRUARY 26, 1992 TAX INCREMENT FINANCE - CITY OF LIGONEER - Amends IC 36-7-14-39.3 and IC 36-7-25-6 - Allows the redevelopment commission to modify the definition of property taxes in their declaratory resolution to

PUBLIC LAW 147 (continued)

include taxes on depreciable personal property of designated taxpayers. Makes the amendment retroactive to the date of amendment.

PUBLIC LAW 148-HOUSE ENROLLED ACT 1159-EFFECTIVE JULY 1, 1992 PUBLIC SAFETY -

Amends IC 36-8-1-9, IC 36-8-3-21, and IC 36-8-4-6.5 - Excludes a police chief hired under a waiver under IC 36-8-4-6.5(c) from being a member of the police department. Allows for the police or fire chief to be appointed who does not meet the conditions for membership in the 1977 police and fire pension fund. Makes the 5-year continuous service and waiver requirements before appointment as a police or fire chief applicable to all cities.

PUBLIC LAW 149-HOUSE ENROLLED ACT 1192-EFFECTIVE JULY 1 AND JANUARY 26, 1992 1977

POLICE AND FIRE PENSION FUND - Amends IC 36-8-8-18 - States that the limit on credit for prior service does not apply if a firefighter was a member of the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 and who subsequently became a member of the 1977 fund. A firefighter who was a member of or reentered the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 is entitled to full credit for prior service in an amount equal to the firefighter's years of service before becoming a member of or reentering the 1977 fund.

A firefighter who was a member of the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 and who became a member of or reentered the 1977 fund under IC 36-8-8-21 is not subject to the preexisting condition limitations for disability benefits identified in IC 36-8-8-21(c).

PUBLIC LAW 151-SENATE ENROLLED ACT 422-EFFECTIVE JULY 1, 1992 DEATH BENEFITS FOR

VOLUNTEER FIREFIGHTERS - Adds IC 36-8-12.5 - Creates a State Volunteer Firefighters Special Death Benefit Fund - Requires those cities and towns with volunteer companies to pay a contribution of \$1 for each member of the company per month. Such payments shall be paid to the Auditor of State each January and July for the preceding 6 month period.

If a contract or agreement exists between a unit and a volunteer company, the contract or agreement must provide for the contribution as an additional amount to the cost of services. If a volunteer fire company serves more than one unit, each unit shall share equally in paying the contribution for the company.

PUBLIC LAW 152-SENATE ENROLLED ACT 377-EFFECTIVE FEBRUARY 28, 1992 BARRETT LAW -

Amends IC 36-9-1-2, IC 36-9-18, IC 36-9-19 and IC 36-9-20 - States that water main extensions are now considered improvements. Allows for early redemption of barrett law bonds. Provides that the interest rate specified for installments may be equal to or greater than the interest rate on bonds issued under IC 36-9-16. Requires bond holders to notify the controller or clerk-treasurer if the bond holders receive a payment of interest or principal.

LEGAL ADVERTISING

The statute governing the publication of legal notices and annual reports may be found in IC 5-3-1. IC 5-3-1-1 details the method of calculating the compensation of the publisher which may be claimed after the notice or report has been published. It also describes the specifications which the publisher is to follow in setting the type for the notice or report.

If the notice is in relation to a public hearing or meeting, IC 5-3-1-2 requires the notice to be published one (1) time, at least ten (10) days before the date of the hearing or meeting.

If the notice is in relation to an election, the notice shall be published one (1) time, at least ten (10) days before the date of the election.

If the notice is in relation to the sale of bonds, notes, or warrants, the notice shall be published two (2) times, at least one week apart, with the first publication made at least fifteen (15) days before the date of the sale and the second publication made at least three (3) days before the date of the sale.

If the notice is in relation to the receiving of bids, the notice shall be published two (2) times, at least one week apart, with the second publication made at least ten (10) days before the date bids will be received.

If the event is the establishment of a cumulative or sinking fund, notice of the proposal and of the public hearing that is required to be held shall be published two (2) times, at least one (1) week apart, with the second publication made at least three (3) days before the date of the hearing.

If the event is the submission of a proposal adopted by a city or town for a cumulative or sinking fund for the approval of the state board of tax commissioners, the notice of the submission shall be published one (1) time. The city or town shall publish the notice when directed to do so by the state board of tax commissioners.

If the event is one about which notice is required to be published after the event, notice shall be published one (1) time within thirty (30) days after the date of the event.

If the notice is in relation to an event of any other nature, the notice shall be published two (2) times, at least one week apart, with the second publication made at least three (3) days before the event.

In case any public official charged with the duty of publishing any notice required by law is unable to procure advertisement at the price fixed by law, or the newspaper refuses to publish the advertisement, it is sufficient for the official to post printed notices in three (3) prominent places in the political subdivision (city or town), in lieu of such advertisement in a newspaper.

LEGAL ADVERTISING
(Continued)

If a notice of budget estimates for a city or town is published as required in IC 6-1.1-17-3, and the published notice contains an error due to the fault of a newspaper, the notice as presented for publication is a valid notice under this chapter.

If a notice of budget estimates for a city or town is published as required in IC 6-1.1-17-3, and if the notice is not published at least ten (10) days before the date fixed for the public hearing on the budget estimate due to the fault of a newspaper, the notice is a valid notice if it is published one (1) time at least three (3) days before the hearing.

IC 5-3-1-4 defines a newspaper for the publication of legal notices and reports as a weekly, semiweekly, tri-weekly, or daily newspaper of general circulation which has been published for at least three (3) consecutive years in the same city or town and entered, authorized and accepted by the United States Postal Service as mailable matter of the second class and which has at least fifty percent (50%) paid subscriptions. When reference is made to a political party such terms shall be construed to mean a newspaper which has declared its political faith or adherence by editorial comment, or otherwise, and which is generally known to profess allegiance to some designated political party.

IC 5-3-1-9 contains the penalty clause for this article and it states that a person who fails to comply with the article commits a Class C infraction.